

✓

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) No. 98 CR 54
) Court of Appeals No.
) 05-1402
)
 DARWIN MONTANA,)
)
 Defendant.)

MEMORANDUM ORDER

As the attached copies of this Court's February 15 and April 13, 2005 memorandum orders reflect, it has been awaiting for some months the submission by Darwin Montana ("Montana") of the necessary printout called for by 28 U.S.C. §1915 ("Section 1915"), covering transactions in his trust fund account at Terre Haute FCI ("Terre Haute") for the entire six month period relevant to his motion for in forma pauperis treatment on appeal. Montana has now provided the required information, enabling this Court to make the appropriate calculations.

Based on the prisoner trust fund account printouts, the average monthly deposits to Montana's account during the six-month period immediately preceding his notice of appeal came to \$144.53 (that figure exceeds the weighted average monthly balance in his account for the same period--see Section 1915(b)(1)). Even though this Court's February 15 memorandum order characterized Montana's appeal as legally frivolous, so that in this Court's view the appeal is not taken in good faith (see

Section 1915(a)(3)), Section 1915(b)(1) obligates Montana to pay the full \$255 in filing fees "[n]otwithstanding subsection (a)."

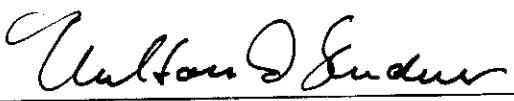
Accordingly, the required initial partial filing fee under the last-cited subsection amounts to 20% of \$144.53. Montana is therefore assessed an initial partial filing fee of \$28.91, and the Terre Haute trust fund officer is ordered to collect that partial filing fee from Montana's trust fund account there and to pay it directly to the Clerk of Court ("Clerk"):

Office of the Clerk
United States District Court
219 South Dearborn Street
Chicago IL 60604

Attention: Fiscal Department

After such payment, the trust fund officer at Terre Haute (or at any other correctional facility where Montana may hereafter be confined) is authorized to collect monthly payments from his trust fund account in an amount equal to 20% of the preceding month's income credited to the account. Monthly payments collected from the trust fund account shall be forwarded to the Clerk each time the amount in the account exceeds \$10 until the full \$255 in appellate filing fees is paid. Both the initial payment and all future payments shall be sent to the Clerk and shall clearly identify Montana's name and both case numbers assigned to this action: Case No. 98 CR 54 in this District Court and Case No. 05-1402 in the Court of Appeals. To implement these requirements, the Clerk shall send a copy of this

order to the Terre Haute trust fund officer.


Milton I. Shadur
Milton I. Shadur
Senior United States District Judge

Date: May 4, 2005